

# THE SUN

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## Prepaid legal plans make inroads in Md.

### Next fringe benefit?

By MICHAEL P. WEISSKOPF

A 23-year-old clerk at City Hall hired a lawyer last month to handle her divorce and help win custody of her 2½-year-old son.

Her legal fees came to \$8 a month.

A 21-year-old construction worker from Laurel hired a lawyer last fall to defend him against charges of drunken driving, driving while impaired and other traffic violations.

His legal fees were set at 3 cents an hour.

The clerk and construction worker belong to prepaid legal plans, a new form of insurance available in Maryland to individuals and members of unions, professional associations, businesses and other groups.

For a few dollars a month or a few cents an hour deducted from paychecks, plan members receive free legal help for nearly every kind of problem ranging from consumer complaints to protracted trials.

The plans are designed to provide access to the legal system for millions of middle-income consumers too wealthy to qualify for public assistance and not rich enough to pay \$50-an-hour legal fees.

As many as five million Americans have joined prepaid legal programs in the past five years since the United States Supreme Court ruled that groups have the right to arrange legal services for their members.

Union leaders predict that prepaid legal services—which employees now pay for themselves—will soon become as important a fringe benefit in labor negotiations as guaranteed medical insurance.

"It's one of the best programs that could be offered to low- and middle-income employees," said William E. Dix, president of the city's Classified Municipal Employees Association, which joined a plan in May.

Even while establishing a beachhead here, prepaid legal plans have not won approval of the Maryland State Bar Association, and resistance from that powerful body clouds the future of the programs in the state.

The association warns lawyers who participate in prepaid plans that they risk violating "ethical standards" established by the state Court of Appeals in its Code of Professional Responsibility.

The code allows lawyers to "co-operate in a dignified manner" with legal service programs of certain nonprofit organizations. But, prepaid legal services are not now among the acceptable groups.

What concerns many bar association officials about prepaid legal plans is the practice of shepherding members to a limited number, or "closed panel," of lawyers selected in advance to handle their cases.

Arthur C. Strasburger, chairman of a special association committee on prepaid legal services, said some closed panel programs could deprive members of their right to a lawyer of their choice.

Mr. Strasburger said lawyers also worry that closed panels discriminate against nonpanel attorneys, allowing a handful of lawyers to dominate the prepaid legal field to the economic exclusion of others.

"A few lawyers could go out and try to direct all the prepaid business to themselves or their firms," Mr. Strasburger said. "The bar association represents all of the lawyers in Maryland."

Last month, the association asked the Court of Appeals to permit lawyers to participate in prepaid plans on condition that members have the right to choose their own lawyer if they have "good reason."

If the client has "good reason" to pick a lawyer outside the panel, according to the proposal, the prepaid program would reimburse the lawyer on the same basis that panel attorneys are compensated.

Consumer groups and prepaid plan officials say the association's approach is not economically feasible. They foresee problems in trying to persuade outside lawyers to accept the fees of panel attorneys.

"It is no business of the bar association as to what types of arrangements these groups select for themselves," said Sandy DeMent, executive director of the National Consumer Center for Legal Services.

While the association's ethics committee has warned that any lawyer who participates in unapproved prepaid plans "does so at his or her own risk," no lawyer in Maryland is known to have been disciplined.

Nevertheless, many lawyers say they will be reluctant to participate in prepaid plans until the court decides whether to sanction the programs and spell out what types of plans are acceptable.

Despite warnings of the organized legal community, some lawyers in Maryland have participated in prepaid legal plans since June, 1973, when the Laborer's District Council of Washington began its program.

The council, made up of eight local construction unions in Maryland, Virginia and Washington, provides its 10,000 members free legal help in return for three cents an hour for each hour the member works.

For an average annual payment of \$33 a year automatically deducted from paychecks as part of union dues, the member and his family have access to a team of nine lawyers paid by the union to handle member cases.

Richard J. Scupi, director of Laborer's Legal Services, said one out of five union members have used the program. Most of the cases involved traffic violations, consumer complaints and family problems, he said.

"We're encouraging members to call us whenever they think they need a lawyer," Mr. Scupi said. "A lot of times they just need reassurance. But, we get a lot of serious cases, too."

The largest prepaid legal program in the Baltimore area is run by Fortement Association, Inc., of Towson, an employee benefit firm offering plans to groups willing to collect payments from their members.

George W. Blood, president of Fortement, said his program has 10,000 members from such groups as Mr. Dix's union, Maryland General Hospital, Optometric Center of Maryland and Neighborhood Family Planning Center.

Fortement offers family plans for \$8 a month and individual plans for \$7 a month. In return, members get full coverage for everything but jury trials and felony cases when the plan only pays up to \$1,000 in legal fees.

Six law firms in the area stand by to handle member cases, Mr. Blood said. The lawyers get more than half of Fortement's premiums in the first year and 70 per cent of the premiums every year thereafter.

Each plan member receives a Fortement card assigning him a lawyer, and Mr. Blood said he encourages use of the plan in monthly newsletters reminding clients of such services as preparation of tax returns.

"We're doing everything we can to get this member to use this plan two or three times a year," he said. "He can get \$200 or \$300 worth of benefits. The idea is to get your rights for you."

Since the program began in May, Fortement's lawyers have seen one of every four plan members, Mr. Blood said. About 40 per cent of the cases resulted in some form of court action, he added.

# Prepaid legal plans are making inroads in LEGAL, from CI Maryland

"There've been a lot of equal rights laws passed lately, but there's never been a vehicle to let an individual enjoy his rights," he said. "If you don't have a lawyer, you don't have equal rights."

Fortement shares the private market with another employees benefit group, American Business Association, Inc.,

which offers a similar program and claims to have acquired nearly 5,000 members in this area since late September.

Unlike the Fortement program, American Business, which has offices in Baltimore, offers prepaid plans to individuals who pay a onetime entrance fee of \$20 to cover the extra costs of printing an individual policy.

The two private firms and the Laborer's Council, while offering their members a form of insurance, are not considered insurance companies subject to regulation of state insurance commissioners.

Congress exempted legal service plans from state controls in its Employee Retirement Income Security Act of 1974, which requires the programs to file annual financial reports with the United States secretary of labor.

Independence from state controls was important for prepaid legal plans in Maryland because state insurance laws bar group casualty insurance, and prepaid legal insurance plans are considered casualty insurance.

That means that legal insurance plans cannot be exclusively offered to an organization, such as a union or business, unless the same benefits are made available to anyone with the same insuring characteristics.

The high costs of writing individual policies for prepaid legal insurance plans—instead of one policy for the group—has been the main stumbling block for insurance companies interested in setting up prepaid plans here.

Although seven firms have received approval from the state insurance commissioner to offer prepaid legal insurance, none is writing today. The plans generally offer partial coverage for variously priced premiums.

"These plans can't really function on an individual basis," said William J. Blondell, a local lawyer for one of the firms, Gulf Insurance Company. "The printing costs alone are prohibitive."

In addition to its 1974 law, Congress has passed several measures in recent years that help foster prepaid plans. In 1971, the Taft-Hartley Act was amended to allow employees to negotiate legal services as a fringe benefit. In the Tax Reform Act of 1976, Congress exempted from taxable income benefits received from legal service plans.

If the bar association gives its blessings to the plans and releases lawyers from ethical restraints, consumer groups predict there will be no limit to the success of prepaid legal services.

"It's the last great benefit a person can add to his portfolio," said Walter E. Dennis, director of administration for American Business. "It'll be the Blue Cross—Blue Shield of the legal profession."